



IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Monday, the Twenty First day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.4160 of 2022

P.SUMATHY

[ PETITIONER / ACCUSED ]

Vs

THE STATE REP BY  
THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
CHENGAM, THIRUVANNAMALAI.  
(CRIME NO.09/2021)

[ RESPONDENT ]

For Petitioner : M/S.S.KUMARA DEVAN Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate ( Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 376 (2) (n) of IPC, Section 5(1), 5(j)(ii), 6 r/w 17 of POCSO Act 2012 , in Crime No.09 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 24.12.2021, the defacto complainant lodged a complaint before the respondent police stating that his daughter was found missing. But he had not lodged any complaint about that. Later, he received message from his wife's sister that his daughter came to her house and stated that she eloped with one, Naveen kumar to Mel Aanaimangalam Village and he had sexual intercourse with her under guise to marry her and she was pregnant Thereafter, he refused to marry her. Hence, the Law Enforcing Agency registered a case against the petitioner.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely



implicated in this case. He would further submit that the petitioner is the mother of A-1 and he is alone actively participated in the alleged occurrence. Accordingly, he pleads for anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police raised objection stating that investigation is pending. Further, he fairly conceded that no overtact against this petitioner.

5. The submissions made by the learned Counsel on either side are considered.

6. The respondent police registered a case against this petitioner and one another accused who is arrayed as A1 for the offence punishable under Sections 376 (2) (n) of IPC, Section 5(1), 5 (j)(ii), 6 r/w 17 of POCSO Act 2012. Now on go through the averments found in the first information report as well as in the statement given by the victim child before the Magistrate would disclose the fact that other accused who is arrayed as A1 alone committed the entire offence. The only allegation against this petitioner is after knowing the fact that the victim child was in her house, she has not taken any action.

7. Therefore, taking into consideration of all the above said aspects into consideration and after considering the gravity of the offence committed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with the following conditions:

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Sessions Court for POCSO, Tiruvannamalai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only), with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



(c) the petitioner shall report before the respondent police daily at 10.00 a.m., for a period of fifteen(15) days and thereafter, as and when required for interrogation.

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

21/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

TO

1 THE SPECIAL SESSIONS COURT FOR POCSO,  
TIRUVANNAMALAI.

2 THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
CHENGAM, THIRUVANNAMALAI DISTRICT.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+1CC to M/S.S.KUMARA DEVAN Advocate on payment of necessary charges SR.No.2670

CRL OP.4160/2022

Date :21/02/2022

CSK 25/02/2022